# MULTIPLE SPECIES CONSERVATION PROGRAM CONFORMANCE STATEMENT For Brightwater Ranch PDS2003-3100-5306, PDS2003-3910-0314007 APN (s) 397-180-11-00

#### November 12, 2015

#### I. Introduction

The proposed project is a 71-lot subdivision to develop a 76.23-acre site. The project site is immediately northwest of an existing mobile home park. Sixty-six single family residential lots will be created along with four HOA lots and a 47.83-acre biological open space lot. Residential lot sizes will range from 10,073 to 32,064 square feet. To access the proposed residences, Wellington Hill Drive will be extended through a four-way intersection on the project's east side to a cul-de-sac to the north, a loop road to the southwest and proposed Jackson Ridge Parkway to the southeast. Jackson Ridge Parkway connects to the I-8 business loop. Sewer service would connect through Wellington Hill Drive. A water line and 16-foot wide access road will be extended from the west side of the adjacent trailer park and along the project's southern boundary.

The site contains coastal sage scrub, non-native grassland, and jurisdictional drainages. Sensitive wildlife species identified on site were coastal California gnatcatcher, monarch butterfly, orange-throated whiptail, southern California rufous-crowned sparrow, Cooper's hawk, and turkey vulture. Protocol surveys conducted in 2014 detected two pairs of gnatcatchers. One of the detected gnatcatcher locations would be impacted. A 2014 protocol survey for Hermes copper butterfly was negative, and the site is considered unoccupied by the Quino checkerspot butterfly based on a habitat assessment. Sensitive plant species identified onsite were San Diego sunflower (507 individuals) and Coulter's matilija poppy (38 individuals). Three of the San Diego sunflowers would be impacted, while all 38 Coulter's matilija poppies would be avoided. The site is located within the MSCP and is designated as a Pre-approved Mitigation Area (PAMA) due to its location in the Lakeside Archipelago. The project would impact 27.1 acres of coastal sage scrub, 0.05 acre of non-native grassland, 0.11 acre of non-wetland Waters of the US, 0.04 acre of exclusively RWQCB jurisdictional non-wetland Waters of the State, and 0.24 acre of CDFW ephemeral streambed.

Project impacts to coastal sage scrub and non-native grassland will be mitigated through on-site preservation of 41.5 acres of coastal sage scrub within a BRCA in the MSCP. The on-site open space will be protected by a recorded biological open space easement, permanent fencing and open space signs. The biological open space will be surrounded by a 100-foot Limited Building Zone easement to prevent fuel modification from extending into the open space. A final Resource Management Plan will be required prior to Final Map recordation to ensure the open space is managed and monitored in perpetuity, funded by an endowment to be established by the developer. Impacts to USACE and CDFW jurisdictional waters will be mitigated at a 1:1 ratio with details to be determined through agency consultation and permitting.

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Habitat Type	Tier Level	Existing On-site	Proposed Impacts	Mitigation Ratio	Required Mitigation	Impact Neutral	On-Site Preservation
Coastal sage							
scrub	II	72.6	27.1	1.5:1	40.7	3.6	41.5
Non-native							
grassland	Ш	0.3	0.05	0.5:1	*	0.25	
Non-native							
vegetation	IV	0.3	<0.1	none	-	0.3	-
Disturbed habitat	IV	2.5	1.3	none	-	0.9	0.3
Developed land	IV	0.5	0.2	none	-	0.1	-
Total:		76.2	28.7		40.7		41.8

Table 1. Impacts to Habitat and Required Mitigation

The findings contained within this document are based on County records, staff field site visits and the Biological Technical Report prepared by Karl Osmundson, HELIX Environmental Planning, dated November 5, 2015. The information contained within these Findings is correct to the best of staff's knowledge at the time the findings were completed. Any subsequent environmental review completed due to changes in the proposed project or changes in circumstance shall need to have new findings completed based on the environmental conditions at that time.

The project has been found to conform to the County's Multiple Species Conservation Program (MSCP) Subarea Plan, the Biological Mitigation Ordinance (BMO) and the Implementation Agreement between the County of San Diego, the CA Department of Fish and Wildlife and the US Fish and Wildlife Service. Third Party Beneficiary Status and the associated take authorization for incidental impacts to sensitive species (pursuant to the County's Section 10 Permit under the Endangered Species Act) shall be conveyed only after the project has been approved by the County, these MSCP Findings are adopted by the hearing body and all MSCP-related conditions placed on the project have been satisfied.

#### II. Biological Resource Core Area Determination

The impact area and the mitigation site shall be evaluated to determine if either or both sites qualify as a Biological Resource Core Area (BRCA) pursuant to the BMO, Section 86.506(a)(1).

A. Report the factual determination as to whether the proposed Impact Area qualifies as a BRCA. The Impact Area shall refer only to that area within which project-related disturbance is proposed, including any on and/or off-site impacts.

The site qualifies as a BRCA because it is shown as PAMA and located within the Lakeside Archipelago habitat linkage.

<sup>\*</sup> Mitigation for impacts to 0.05 acre of non-native grassland is provided by preservation of higher-quality Diegan coastal sage scrub on-site.

## B. Report the factual determination as to whether the Mitigation Site qualifies as a BRCA.

The mitigation will be on-site adjacent to the impact area and qualifies as a BRCA because it is shown as PAMA and located within the Lakeside Archipelago habitat linkage.

#### **III. Biological Mitigation Ordinance Findings**

#### A. Project Design Criteria (Section 86.505(a))

The following findings in support of Project Design Criteria, including Attachments G and H (if applicable), must be completed for all projects that propose impacts to Critical Populations of Sensitive Plant Species (Attachment C), Significant Populations of Narrow Endemic Animal Species (Attachment D), Narrow Endemic Plant Species (Attachment E) or Sensitive Plants (San Diego County Rare Plant List) or proposes impacts within a Biological Resource Core Area.

1. Project development shall be sited in areas to minimize impact to habitat.

The 76.2 acre site is almost entirely (72.6 acres) coastal sage scrub; therefore, any location on the site will have similar habitat impacts. However, the project design locates impacts on the east side of the site, surrounded on three sides by existing development, while protecting the west side of the site that aligns with the movement path through the Lakeside Archipelago, thereby maximizing habitat connectivity through the site.

2. Clustering to the maximum extent permitted by County regulations shall be considered where necessary as a means of achieving avoidance.

Clustering was not necessary in this case because the minimum lot size set by the Zoning Ordinance already allows for the consolidation of homes on a limited portion of the site, leaving the majority of the site preserved in biological open space.

3. Notwithstanding the requirements of the slope encroachment regulations contained within the Resource Protection Ordinance, effective October 10, 1991, projects shall be allowed to utilize design that may encroach into steep slopes to avoid impacts to habitat.

The project did not require encroachment beyond RPO limits because the area of the site with best connectivity for preservation is also the steeper portion of the site, while the flatter portion adjoins existing development.

4. The County shall consider reduction in road standards to the maximum extent consistent with public safety considerations.

The County applied the minimum road standards necessary for public safety.

 Projects shall be required to comply with applicable design criteria in the County MSCP Subarea Plan, attached hereto as Attachment G (Preserve Design Criteria) and Attachment H (Design Criteria for Linkages and Corridors).

See findings below.

#### B. Preserve Design Criteria (Attachment G)

In order to ensure the overall goals for the conservation of critical core and linkage areas are met, the findings contained within Attachment G shall be required for all projects located within Pre-Approved Mitigation Areas or areas designated as Preserved as identified on the Subarea Plan Map.

1. Acknowledge the "no net loss" of wetlands standard that individual projects must meet to satisfy State and Federal wetland goals, policies, and standards, and implement applicable County ordinances with regard to wetland mitigation.

The site does not support wetland habitat types. There are jurisdictional streambeds on-site, but they do not qualify as RPO wetlands because they do not have a predominance of hydrophytic vegetation, hydric soils, or a non-soil substrate. The jurisdictional streambed impacts (0.11 acre of non-wetland Waters of the US, 0.04 acre of exclusively RWQCB jurisdictional non-wetland Waters of the State, and 0.24 acre of CDFW ephemeral streambed) would require wetland permits and mitigation at a 1:1 ratio as determined through the permitting process.

2. Include measures to maximize the habitat structural diversity of conserved habitat areas, including conservation of unique habitats and habitat features.

The proposed open space maximizes structural diversity by preserving the slopes on all sides of the hilltop, 99% of the San Diego sunflower plants and 100% of the Coulter's matilija poppies, one of the two California gnatcatcher locations, and the most direct movement route along the Lakeside Archipelago.

3. Provide for the conservation of spatially representative examples of extensive patches of Coastal sage scrub and other habitat types that were ranked as having high and very high biological value by the MSCP habitat evaluation model.

The proposed open space includes more than 40 acres of coastal sage scrub, which represents more than half of the CSS on-site, most of which was ranked Very High by the habitat evaluation model. In addition, the CSS to be preserved includes all slope aspects. The only other sensitive habitat type on-site is a small

quantity of non-native grassland, most of which is considered impact neutral because it is within required fuel modification areas.

4. Create significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats. Subsequently, using criteria set out in Chapter 6, Section 6.2.3 of the MSCP Plan, potential impacts from new development on biological resources within the preserve that should be considered in the design of any project include access, non-native predators, non-native species, illumination, drain water (point source), urban runoff (non-point source) and noise.

The proposed open space is over 40 acres in a cohesive block (except for the existing water tank and access road, which would remain but have minimal access). The open space is contiguous with undeveloped habitat to the north. Access would be restricted by split rail fencing and signs. Non-native predators and species would be monitored and controlled as necessary according to the approved Resource Management Plan. Lighting and noise from the homes would be controlled by the County Light Pollution Code and Noise Ordinance, and runoff water would be controlled by the Stormwater Management Plan.

5. Provide incentives for development in the least sensitive habitat areas.

Although the entire site supports coastal sage scrub, the proposed impact area is considered less sensitive due to its proximity to existing homes and off-set from the bird flight path through the Lakeside Archipelago.

6. Minimize impacts to narrow endemic species and avoid impacts to core populations of narrow endemic species.

The project will not impact narrow endemic species.

7. Preserve the biological integrity of linkages between BRCAs.

The project will preserve the biological integrity of the Lakeside Archipelago by preserving over 40 acres of high-quality coastal sage scrub along the linkage path, maintaining the connection width to the north and minimizing the distance to off-site habitat to the south.

8. Achieve the conservation goals for covered species and habitats (refer to Table 3-5 of the MSCP Plan).

Table 3-5 does not list conservation goals for Coulter's matilija poppy, San Diego sunflower, monarch butterfly, or turkey vulture. According to Table 3-5, the MSCP is expected to preserve 59% of foraging habitat for Cooper's hawk, 61% of potential habitat for southern California rufous-crowned sparrow, and 59% of potential habitat for orange-throated whiptail, based on a combination of

project mitigation per the BMO, existing preserves, County and Agency acquisitions. The proposed on-site preservation of 41.5 acres of CSS in compliance with the BMO contributes to preservation goals listed in Table 3-5. For southern California rufous-crowned sparrow, Table 3-5 suggests that dynamic processes such as fire be used to perpetuate open phases of coastal sage scrub. Although setting fires is probably not appropriate for this site, fires may occur naturally, and the project site does include open CSS on the west side of the hill. The conditions for Cooper's hawk also require breeding season avoidance with a 300-foot avoidance area, which is exceeded by the project's proposed avoidance of 500 feet around active raptor nests.

### C. Design Criteria for Linkages and Corridors (Attachment H)

For project sites located within a regional linkage and/or that support one or more potential local corridors, the following findings shall be required to protect the biological value of these resources:

## 1. Habitat linkages as defined by the BMO, rather than just corridors, will be maintained.

The proposed biological open space maintains a habitat linkage, not just a corridor, by maintaining the current connection width of 860 feet on the north side, open space width of 1000 feet on the south side, and up to 1750 feet in the middle.

## 2. Existing movement corridors within linkages will be identified and maintained.

The proposed open space is aligned on the west side of the site, providing a more direct north-south flight path through the Lakeside Archipelago. The Lakeside Archipelago is a stepping-stone habitat linkage primarily useful for birds rather than large mammals; nevertheless, the proposed homes do not block wildlife movement since they are located on the east side of the site, nestled in the corners with existing homes on three sides, leaving the whole west side of the site open.

## 3. Corridors with good vegetative and/or topographic cover will be protected.

The project site does not include woodland, chaparral, or riparian habitat corridors with dense vegetative cover; however, the main ridgeline of the hill in the middle of the proposed open space is aligned in a north-south direction, so it does not block the expected north-south movement through the archipelago. The proposed open space includes both the more open CSS on the west-facing slope and the more dense CSS on the east-facing slope of the hill.

 Regional linkages that accommodate travel for a wide range of wildlife species, especially those linkages that support resident populations of wildlife, will be selected.

The proposed open space would support resident California gnatcatchers; perhaps from two up to seven pairs based on the size of the open space and known occupancy.

5. The width of a linkage will be based on the biological information for the target species, the quality of the habitat within and adjacent to the corridor, topography, and adjacent land uses. Where there is limited topographic relief, the corridor must be well vegetated and adequately buffered from adjacent development.

The proposed open space is high quality Diegan coastal sage scrub, with slopes facing in all directions. Although the project site is largely surrounded by residential development, the open space design maintains full connectivity with undeveloped habitat to the north and minimizes the distance to native habitat to the south. The biological open space is also buffered from the proposed homes by a 100-foot limited building zone that prevents fire clearing from extending into the biological open space.

6. If a corridor is relatively long, it must be wide enough for animals to hide in during the day. Generally, wide linkages are better than narrow ones. If narrow corridors are unavoidable, they should be relatively short. If the minimum width of a corridor is 400 feet, it should be no longer than 500 feet. A width of greater than 1,000 feet is recommended for large mammals and birds. Corridors for bobcats, deer, and other large animals should reach rim-to-rim along drainages, especially if the topography is steep.

The on-site open space narrows to 860 feet at the northern edge where it is constrained by existing off-site homes, but the remainder of the open space widens to up to 1750 feet wide, and 1000 feet wide on the southern edge. This provides adequate habitat acreage for the California gnatcatcher to live on-site rather than just flying through. While large mammals are not expected to use the site, the proposed width would be adequate.

7. Visual continuity (i.e., long lines-of-site) will be provided within movement corridors. This makes it more likely that animals will keep moving through it. Developments along the rim of a canyon used as a corridor should be set back from the canyon rim and screened to minimize their visual impact.

The site does not include a canyon; rather, it is dominated by a hill, with the main ridgeline of the hill is oriented north-south. The ridgeline and side slopes

are included in the proposed biological open space easement, providing long lines of sight along the ridgelines and side slopes.

8. Corridors with low levels of human disturbance, especially at night, will be selected. This includes maintaining low noise levels and limiting artificial lighting.

There are some informal trails through the site, but most of the trails are located within the proposed development footprint. The trails within the biological open space would be blocked off by fencing and signage, while the trail proposed with the project would run through the impact area and fuel modification zone. The proposed homes will be separated from the open space by a 100-foot Limited Building Zone, thus reducing the noise and light levels reaching the open space. In addition, all homes must comply with the County's noise and lighting limitations, which are measured at the property line. The open space will also be managed and monitored under a Resource Management Plan, and the Resource Manager will alert the Homeowner's Association if noise and lighting are affecting the open space.

9. Barriers, such as roads, will be minimized. Roads that cross corridors should have ten foot high fencing that channels wildlife to underpasses located away from interchanges. The length-to-width ratio for wildlife underpasses is less than 2, although this restriction can be relaxed for underpasses with a height of greater than 30 feet.

There is a 16-foot wide water district access road proposed along the southern edge of the biological open space; however, the direct movement path for wildlife is already blocked by existing off-site homes. In addition, the road will be used only by the water district and not by the general public. Therefore, no wildlife crossing is needed.

10. Where possible at wildlife crossings, road bridges for vehicular traffic rather than tunnels for wildlife use will be employed. Box culverts will only be used when they can achieve the wildlife crossing/movement goals for a specific location. Crossings will be designed as follows: sound insulation materials will be provided; the substrate will be left in a natural condition, and vegetated with native vegetation if possible; a line-of-site to the other end will be provided; and if necessary, low-level illumination will be installed in the tunnel.

No wildlife crossing is needed, as explained above.

11.If continuous corridors do not exist, archipelago (or stepping-stone) corridors may be used for short distances. For example, the gnatcatcher may use disjunct patches of sage scrub for dispersal if the distance involved is less than 1-2 miles.

The proposed open space is part of the Lakeside Archipelago linkage.

### IV. Subarea Plan Findings

Conformance with the objectives of the County Subarea Plan is demonstrated by the following findings:

1. The project will not conflict with the no-net-loss-of-wetlands standard in satisfying State and Federal wetland goals and policies.

As stated above, the project will not impact wetlands.

2. The project includes measures to maximize the habitat structural diversity of conserved habitat areas including conservation of unique habitats and habitat features.

As stated above, the proposed open space maximizes structural diversity by preserving the slopes on all sides of the hilltop, 99% of the San Diego sunflower plants and 100% of the Coulter's matilija poppies, one of the two California gnatcatcher locations, and the most direct movement route along the Lakeside Archipelago.

3. The project provides for conservation of spatially representative examples of extensive patches of Coastal sage scrub and other habitat types that were ranked as having high and very high biological values by the MSCP habitat evaluation model.

The proposed open space includes more than 40 acres of coastal sage scrub, which represents more than half of the CSS on-site, most of which was ranked Very High by the habitat evaluation model. In addition, the CSS to be preserved includes all slope aspects. The only other sensitive habitat type on-site is a small quantity of non-native grassland, most of which is considered impact neutral because it is within required fuel modification areas.

4. The project provides for the creation of significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats.

The proposed open space is over 40 acres in a cohesive block (except for the existing water tank and access road, which would remain but have minimal access). The open space is contiguous with undeveloped habitat to the north. Edge effects would be reduced by split rail fencing and signs and the implementation of a Resource Management Plan. The open space is also separated from homes by a 100-foot Limited Building Zone.

5. The project provides for the development of the least sensitive habitat areas.

Although the entire site supports coastal sage scrub, the proposed impact area is considered less sensitive compared to the proposed open space due to its proximity to existing homes and off-set from the bird flight path through the Lakeside Archipelago.

6. The project provides for the conservation of key regional populations of covered species, and representations of sensitive habitats and their geographic sub-associations in biologically functioning units.

The project will conserve over 40 acres of live-in gnatcatcher habitat. Although the two to seven pairs of gnatcatchers that could live on-site are not considered a key regional population by themselves, they are part of a larger population that can move and interbreed through the Lakeside Archipelago.

7. Conserves large interconnecting blocks of habitat that contribute to the preservation of wide-ranging species such as Mule deer, Golden eagle, and predators as appropriate. Special emphasis will be placed on conserving adequate foraging habitat near Golden eagle nest sites.

The project site is not expected to support large mammals or golden eagles; however, the proposed open space would support gnatcatchers and other wildlife species including monarch butterfly, orange-throated whiptail, southern California rufous-crowned sparrow, Cooper's hawk, and turkey vulture.

8. All projects within the San Diego County Subarea Plan shall conserve identified critical populations and narrow endemics to the levels specified in the Subarea Plan. These levels are generally no impact to the critical populations and no more than 20 percent loss of narrow endemics and specified rare and endangered plants.

The site does not support identified critical populations or narrow endemics. Two sensitive plant species were observed on-site: San Diego sunflower and Coulter's matilija poppy. The project would impact only three individual San Diego sunflowers out of 507 observed (less than 1 percent) and none of the matilija poppies.

9. No project shall be approved which will jeopardize the possible or probable assembly of a preserve system within the Subarea Plan.

The project will not jeopardize the assembly of the MSCP preserve system because the majority of the site is proposed for preservation, as appropriate given its location within the Lakeside Archipelago. While the areas to be impacted also support coastal sage scrub, the proposed homes are located at the eastern edge and corners of the site, surrounded by residential development on three sides. The project access is also from the east side, and the required water district access road, which enters from the west, is located along the southern edge of the open space adjacent to existing development.

## 10. All projects that propose to count on-site preservation toward their mitigation responsibility must include provisions to reduce edge effects.

The project will reduce edge effects by dedicating open space in a large contiguous block, minimizing the perimeter for the area. Fire clearing will be excluded from the open space by a 100-foot Limited Building Zone, which will also provide a buffer for light and noise. Human access will be restricted by fencing and signage, which will block existing informal trails. The applicant will also provide endowment funding for maintenance and monitoring of the open space in perpetuity according to a final Resource Management Plan consistent with the Conceptual RMP prepared by HELIX Environmental Planning. The Habitat Manager will be a qualified entity such as the San Diego Habitat Conservancy or the Center for Natural Lands Management, with the final choice subject to County approval.

# 11. Every effort has been made to avoid impacts to BRCAs, to sensitive resources, and to specific sensitive species as defined in the BMO.

While the entire site is a BRCA, the impacts have been minimized by concentrating the homes on the east site of the site, surrounded by existing homes and the Jackson Ridge project currently under construction. Impacts to Coulter's matilija poppy have been completely avoided, while only three individuals out of 504 San Diego sunflower will be impacted. The observed locations of turkey vulture, orangethroated whiptail, Cooper's hawk, monarch butterfly, rufous-crowned sparrow, and one of two gnatcatcher locations would be preserved in the 41.5-acre open space. The proposed open space is located on the west side of the site, along the northsouth flight path of birds moving along the Archipelago, directly connected to habitat on the north side and closest to off-site habitat on the south side. The on-site open space will be protected by a biological open space easement dedicated to the County, with a Resource Management Plan as described above. The open space will be protected from fire clearing by a 100-foot Limited Building Zone, and unauthorized access will be restricted by split-rail fencing and signs. Grading Plans will specify no grading or clearing within 300 feet of occupied coastal sage scrub or within 500 feet of active tree-nesting raptor habitat during the applicable breeding season. Through all of these measures, every effort has been made to avoid impacts to BRCAs, to sensitive resources, and to specific sensitive species as defined in the BMO.

Beth Ehsan, Planning & Development Services

MSCP Designation for Brightwater Ranch MSCP Designations - South Conserved Subject to Agreement with Wildlife... Pre-Approved Mitigation Area Hardline Preserve Santa Fe Valley "D" Designator Major Amendment Area Santa Fe Valley Open Space II Minor Amendment Area Take Authorized Area Minor Amendment Area Subject to Special... Unincorporated Land in Metro-Lakeside-Jamul... Otay Ranch Areas Where no Take Permits will...